

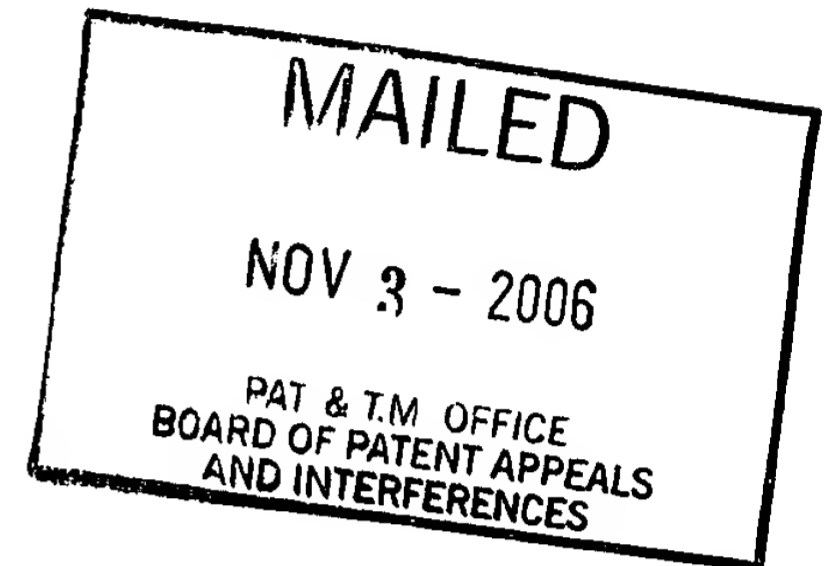
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte LOWELL E. KOLB,
KRISTINA L. MANN,
SAMUEL M. BABB,
PAUL H. MAZURKIEWICZ, and
KEN K. SIBLEY

Application No. 09/813,257

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER



This application was received electronically at the Board of Patent Appeals and Interferences on October 2, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

On August 9, 2005, appellants filed an Appeal Brief under 37 CFR § 41.37. A review of the file reveals that the "Summary of Claimed Subject Matter," as required by § 41.37(c)(1)(v), is not properly set forth. 37 C.F.R. § 41.37(c)(1)(v) specifies:

(v) ***Summary of claimed subject matter.*** A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

As indicated, the disclosure must be mapped to the independent claims, here Claims 1 and 12, including specification page and line numbers, and drawing reference characters.

Lastly, a review of the file reveals that claim 1 in the Claims Appendix of the Appeal Brief is not consistent with the claim as amended in the Amendment filed January 25, 2005. Appropriate correction required.

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) to hold the Appeal Brief of August 9, 2005 defective;
- 2) to notify applicants to file a substitute Appeal Brief in compliance with the 37 CFR § 41.37;

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- 3) for the examiner to consider the substitute Appeal Brief, and if necessary, vacate the examiner's answer mailed October 27, 2005, and issue a revised Examiner Answer in accordance with MPEP § 1207.02;
- 4) for correction of the Claims Appendix; and
- 5) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: *G. P. Edge for Dale Shaw*
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DMS/dal

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